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BY ECF & FEDERAL EXPRESS

Honorable Michael A. Hammer, U.S.M.J.
Martin Luther King, Jr. Federal Building &
U.S. Courthouse
Court Room MLK 3C
50 Walnut Street
Newark, NJ 07101

Re: *Marchese, et al. v. Cablevision Systems Corp., et al.*
Civil Action No. 10-2190 (KM) (MAH)

Dear Judge Hammer:

We represent Defendants Cablevision Systems Corporation and CSC Holdings, LLC ("Cablevision"). We write in connection with the October 25, 2012 letter application (ECF No. 104) and proposed order (ECF No. 104-1) respecting the Cable Act, which was the subject of the November 20, 2012 hearing held before Your Honor. We have conferred with counsel for Plaintiffs, who have no objection to this letter or the requests made herein.

Cablevision is pleased to report that it has determined that it can proceed in discovery in a manner that relieves the Court of the burden of receiving further briefing on, or needing to rule on, the issues raised by the letter application and proposed order. Specifically, Cablevision has no present intention of producing subscriber street level addresses (but will produce, among other information, city, state, and zip code) in fact discovery in this action. Cablevision understands that production of similar information (e.g., without street address) was made in other set-top box litigations, including *Cox* and *Bright House*. See *Parsons v. Bright House Networks, LLC*, 2:09-cv-00267 (N.D. Ala.); *In re Cox Enterprises, Inc. Set-Top Cable Television Box Antitrust Litig.*, 5:09-ml-02048 (W.D. Ok.).

Cablevision apologizes that it was not able to bring the issues raised in this letter to the Court's attention prior to the Court's issuance of its November 28, 2012 Order (ECF 114). Because the proposed Cable Act order (ECF No. 104-1) has now been withdrawn, we respectfully submit that the directives set forth in the Court's November 28, 2012 Order (requiring a joint submission on January 7 and an in person hearing on January 23, 2013 regarding the Cable Act issue) are no longer applicable. However, we respectfully suggest that the January 23, 2013 date be used for a telephone status conference with Your Honor.

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We accordingly have enclosed for Your Honor's consideration a proposed Consent Order reflecting the vacatur of the Court's November 28, 2012 Order. If the proposed Order meets with the Court's approval, we would appreciate if the Court would execute the same and have it filed with the Clerk.

The withdrawal of the October 25 letter application and attached proposed order is without prejudice to either party's ability to seek to renew a request for entry of another order in connection with the Cable Act at a later phase of the proceeding (for instance, if a class is certified), or to seek other appropriate relief in connection with the matters raised herein (including, but not limited to, what arguments can properly be advanced by either party in opposition to or in support of class certification).

The parties thank the Court for its consideration and cooperation in this matter. Naturally, if the Court has any questions, we would be pleased to respond at the Court's convenience.

Respectfully submitted,



Arnold B. Calmann

ABC/jbh
Enclosure

cc: All Counsel of Record (w/encl., by ECF & email)